S.B. CRIMINAL REVISION PETITION NO.314/2007
(Rajjak Khan vs. State of Rajasthan)

Date :: 26.04.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr.S.K. Maheshwari for
Mr.Sunil Mehta, for the petitioner.
Mr.Ashok Upadhyay, Public Prosecutor.
Mr.Pradeep Choudhary, for complainant.

Heard learned counsel for the petitioner.

By way of filing this revision petition, the petitioner is challenging the order dated 09th April, 2007 whereby an application filed by the petitioner under Section 311 Cr.P.C. was rejected by the Additional Sessions Judge, Didwana.

In the application filed by the petitioner, it was prayed that S.D.M. Mr. Pushottam Sharma who has conducted the proceedings under Section 174 Cr.P.C. may be called for the purpose of proving Exhibit-P/3 and Exhibit-P/4 which were said to be prepared by him. The application for calling Mr. Purshottam Sharma, S.D.M. was rejected on the ground that prosecution has relied upon those documents. The petitioner has prayed for quashing order dated 09th April, 2007 and for allowing the application filed under Section 311 Cr.P.C.

Learned counsel for the respondents vehemently opposed the prayer and stated that application has rightly been rejected by the

trial court and there is no error in the order.

I have perused the impugned order dated 09th April, 2007.

In this case, at present the trial court is recording statement of defence witnesses, therefore, for fair trial and to provide reasonable opportunity of hearing to the petitioner accused, it is necessary to call Mr.Purshottam Sharma, RAS, presently posted in the office of Department of Personnel, Secretariat Building, Jaipur.

As per information of the petitioner, the residential address of Mr.Pushottam Sharma, R.A.S. is E-735, Gandhi Nagar, Jaipur, therefore, summons may be issued on this address.

In the interest of justice, the order dated 09th April, 2007 is set aside and application filed by the petitioner under Section 311 Cr.P.C. is allowed, learned trial court is directed to call witness Mr.Purshottam Sharma, Ex.S.D.M. on the address as given by the petitioner for securing his presence.

The learned trial court is directed to issue summons and call the witness for the purpose as payed by the petitioner in his application under Section 311 Cr.P.C.

Accordingly, the criminal revision petition is allowed.

[GOPAL KRISHAN VYAS],J.

A.K. Chouhan/-